

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TIMTU WOLDEMARIAM, Parent and
Guardian on behalf of EZANA KIDANE,
a Disabled Student,

Plaintiffs,

v.

SEATTLE SCHOOL DISTRICT, a
Washington Municipal Corporation,

Defendant.

NO. 2:19-cv-00299

NOTICE OF REMOVAL

(King County Superior Court
Case No. 19-2-02858-1 SEA)

Demand for Jury Trial

To: Clerk of the Court
United States District Court
Western District of Washington

PLEASE TAKE NOTICE that Defendant Seattle School District ("District"), by and through its undersigned counsel of record, Mark F. O'Donnell and Karen L. Phu, of Preg O'Donnell & Gillett, PLLC, files this Notice of Removal pursuant to 28 U.S.C. § 1441(a) to remove Case No. 19-2-02858-1 SEA from the Superior Court of the State of

1 Washington for the County of King to the United States District Court for the Western
2 District of Washington on the following grounds:

3 1. Plaintiffs Timtu Woldemariam and Ezana Kidane filed the underlying civil
4 action against the Defendant on January 29, 2019, in King County Superior Court alleging
5 claims for (1) violations of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794;
6 (2) violations of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*;
7 (3) violations of the Washington Law Against Discrimination, RCW 49.60 *et seq.*; (4)
8 assault and battery; and (5) negligence.

9
10 2. Plaintiffs served a Summons and Complaint on the Defendant on January
11 31, 2019. Less than 30 days have passed since the Defendant was served. The
12 Defendant has not answered or filed any pleadings in this matter other than a Notice of
13 Appearance. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

14 3. This action may be removed to the United States District Court on the
15 following bases:

16 a. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 over
17 Plaintiffs' civil claims arising under federal law for violations of Section 504
18 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and violations of Title II
19 of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*

20
21 b. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over
22 Plaintiffs' remaining civil claims arising under state law for violations of the
23 Washington Law Against Discrimination, RCW 49.60 *et seq.*, assault and
24 battery, and negligence because they are related to the same case and
25

1 controversy as the claims referend in paragraph 3(a) over which this Court
2 has original jurisdiction.

3 4. Defendant will promptly give notice of this Notice of Removal to Plaintiffs
4 and file a copy with the clerk of the King County Superior Court pursuant to 28 U.S.C. §
5 1446(d).

6
7 5. A copy of the underlying Complaint is attached as Exhibit A hereto pursuant
8 to LCR 101(b).

9 6. Plaintiffs' claims arose from alleged events which took place in King County.
10 Upon information and belief, at all times relevant to Plaintiffs' allegations, Plaintiffs were
11 residents of King County. Defendant's principal place of business is in King County.
12 Therefore, this case should be assigned to a judge in Seattle pursuant to LCR 3(e).

13 7. Defendant concurrently files a Notice of Related Case pursuant to LCR 3(g)
14 regarding that the pending case of *Woldemariam, et al., v. Seattle School District*,
15 Western District of Washington Case No. 18-cv-01825-RSM, assigned to Judge Ricardo
16 S. Martinez.

17 8. Defendant hereby demands a jury trial on all issues triable by a jury
18 pursuant to FRCP 81(c)(3) and 38(b) and LCR 38.

19 WHEREFORE, based on the foregoing, Defendant respectfully requests that the
20 above referenced action be removed from the Superior Court of the State of Washington
21 for the County of King to the United States District Court for the Western District of
22 Washington.
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24
25

1 DATED this 1st day of March, 2019.

2 PREG O'DONNELL & GILLETT PLLC

3 By /s/ Mark F. O'Donnell

4 Mark F. O'Donnell, WSBA #13606

5 Karen L. Phu, WSBA #42136

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13 Attorneys for Defendant Seattle School

14 District

DECLARATION OF SERVICE

I hereby declare that on this day I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record listed below:

Counsel for Plaintiffs Timu Woldemariam and Ezana Kidane:

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☒ **Via Messenger**
☐ **Via Facsimile – (206) 447-1523**
☐ **Via U.S. Mail, postage prepaid**
☐ **Via Overnight Mail, postage prepaid**
☒ **Via Court E-Service or email with recipient's approval**
susanmm@msn.com

DATED at Seattle, Washington, this 1st day of March, 2019.

/s/ Mark F. O'Donnell
Mark F. O'Donnell, WSBA #13606